

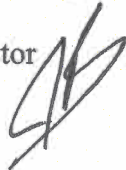


Division of Enforcement

Guidance Memorandum

Subject: Civil Enforcement Manual
Chapter 4 – Civil Charges and Civil Penalties

To: Regional Enforcement Managers and Specialists, Regional Compliance Auditors,
Central Office Enforcement Managers (electronic distribution)

From: Jefferson D. Reynolds, Director
Division of Enforcement 

Date: September 6, 2012

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Summary:

Chapter 4 of the Civil Enforcement Manual on Civil Charges and Civil Penalties has been completed and is effective as of this date. This guidance supersedes two previous guidance memoranda: *Civil Charges and Civil Penalties in Administrative Actions*, CEM-7 (December 15, 2009) and *Oil Discharge Civil Charge/Civil Penalty Worksheet and Text*, CEM-7A (May 2, 2011). The revision makes numerous small changes and several larger ones. The guidance:

- Emphasizes that the primary goals of enforcement are compliance and remedial action, but also states that the cost of non-compliance should exceed the cost of compliance;
- Establishes consistent adjustment factors for Compliance History and Culpability, including a small cross-media element for Compliance History;
- Re-writes the section on the Virginia Water Protection Permit Program (VWPP) to improve consistency and place greater emphasis on environmental harm;
- Adds a line to the Water Worksheet for biosolids transport;
- Makes it clear that ability to pay is considered before (not after) the order is signed;
- Makes handing out completed worksheets discretionary (except in formal hearings), and
- Updates references and links to current statutes and regulations and the current organization of DEQ.

Revision of this chapter has been a topic of four enforcement workshops, with comment periods before and after each. There have been several dedicated conference calls involving Regional and Central Office staff. Sections with substantial changes were coordinated with the relevant program offices and their standing workgroups. The VWPP section had its own workgroup with Central Office, Regional Office, and Program participation.

Electronic Copy:

An electronic copy of this guidance is available on the Department's website at: [Virginia DEQ - Enforcement – Laws, Regulations, & Guidance](#).

Contact Information:

Please contact the media Central Office Enforcement Manager with any questions regarding the application of this guidance to a specific case. For general questions about the guidance, please contact John Ely at (804) 698-4249 or John.Ely@deq.virginia.gov.

Disclaimer:

Guidance documents set forth presumptive operating procedures. They do not establish or affect legal rights or obligations, do not establish a binding norm, and are not determinative of the issues addressed. Decisions in individual cases will be made by applying the laws, regulations, and policies of the Commonwealth to case-specific facts. *See* Va. Code [§ 2.2-4001](#).